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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,846	10/30/2003	Laurent Massoulie	MS1-1632US	9313

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MICROSOFT CORPORATION
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EXAMINER

WALSH, JOHN B

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/698,846

Applicant(s)

MASSOULIE ET AL.

Examiner

John B. Walsh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-28 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,909,700 to Benmohamed et al.

As concerns claims 1, 10 and 19, determining a first cost associated with a logical network link between an active node (column 3, lines 39-40) and a first neighboring node of the active node within an overlay network; determining a second cost associated with a proposed logical network link between the first neighboring node and a second neighboring node of the active node within the overlay network; and reorganizing the overlay network to replace the logical network link with the proposed logical network link in the overlay network with a reorganization probability based on the first and second costs and the degrees of the nodes (column 5, lines 12-32).

As concerns claims 2, 11 and 20, wherein the reorganization probability is dependent upon a change in an energy function caused by replacing the logical network link with the proposed logical network link in the overlay network (column 5, lines 12-32).

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As concerns claims 3, 12 and 21, wherein determining the first cost comprises: measuring a round trip delay time (column 6, line 54) between the active node and the first neighboring node of the active node within the overlay network.

As concerns claims 4, 13 and 22, wherein determining the second cost comprises: triggering a measurement of a round trip delay time (column 6, line 54) between the first and second neighboring nodes of the active node within the overlay network.

As concerns claims 5, 14 and 23, wherein determining the first cost comprises: determining an available bandwidth (column 6, lines 2-5) in the logical network link between the active node and the first neighboring node of the active node within the overlay network.

As concerns claim 6, 15 and 24 wherein determining the second cost comprises: determining available bandwidth (column 6, lines 2-5) in the proposed logical network link between the first and second neighboring nodes of the active node within the overlay network.

As concerns claims 7, 16 and 25 further comprising: randomly selecting the first neighboring node of the active node from a local address list of the active node (column 25, lines 39-45).

As concerns claims 8, 17 and 26 wherein the overlay network is an unstructured overlay network (column 26, line 48).

As concerns claims 9, 18 and 28 further comprising: restricting a subset of neighboring nodes of the active node from reorganization (column 14, lines 36-40).

As concerns claim 27, the system of claim 19 wherein the first and second neighboring nodes of the active node are selected from a neighbor list maintained by the active node (column 13, lines 18-19; column 15, line 35; column 15, line 51).

Response to Arguments

3. Applicant's arguments filed January 6, 2006 have been fully considered but they are not persuasive.

The applicant argues Benmohamed et al. do not disclose "reorganizing the overlay network to replace the logical network link with the proposed logical network link in the overlay network with a reorganization probability based on the first and second costs and the degrees of the nodes". Benmohamed et al. figure 2 discloses reorganizing the overlay network based on a first cost (202; initial network topology), a second cost (204; proposed link) and the degrees of nodes (204; congestion scenario, end to end delays). In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the degree of a node refers to the size of the nodes neighbor list) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore Benmohamed et al. discloses the determination and reorganization is based on each link which takes into account the size of a node.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

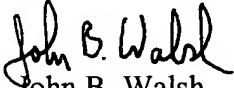
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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John B. Walsh whose telephone number is 571-272-7063. The examiner can normally be reached on Monday-Wednesday from 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


John B. Walsh
Primary Examiner
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